

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CENTURY SURETY COMPANY,

No. C-11-5482 EMC

Plaintiff,

v.

**ORDER RE SUPPLEMENTAL
BRIEFING**ISAAC K. KASHAMA, *et al.*,**(Docket No. 35)**Defendants.

Plaintiff Century Surety Company has filed suit against Defendants Osman Othman and Isaac K. Kashama. The claims against Mr. Othman are currently subject to a bankruptcy stay. After Mr. Kashama failed to respond to the complaint, the Clerk of the Court entered his default on May 25, 2012. *See* Docket No. 33 (notice). Century has now filed a motion for default judgment against Mr. Kashama. Having reviewed the motion and accompanying submissions, the Court hereby orders Century to provide supplemental briefing on the following issues.

(1) Whether a default judgment against Mr. Kashama should be deferred pursuant to *Frow v. De La Vega*, 82 U.S. 552 (1872), in which the Supreme Court held that, under certain circumstances, a court should not enter a default judgment against one or more defendants which is, or likely to be, inconsistent with judgment on the merits in favor of the remaining answering defendants. *See, e.g., Shanghai Auto. Instrument Co. v. Kuei*, 194 F. Supp. 2d 995, 1006 (N.D. Cal. 2001) (report and recommendation) (noting that courts, “including the Ninth Circuit, have held that *Frow* is not limited to claims asserting joint liability, but extend to certain circumstances in which the defendants have closely related defenses or are otherwise similarly situated”).

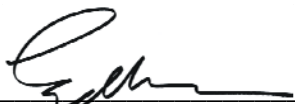
(2) Whether Century's request for a declaration that no party (*i.e.*, persons other than Mr. Kashama) may sue Century on the insurance policy pursuant to the "Legal Action Against Us" clause is ripe for review.

The supplemental briefing shall be filed by July 23, 2012.

Century shall serve a copy of this order on Mr. Kashama within three days of the date of this order and shall file a proof of service on that same date certifying that service of process has been effected.

IT IS SO ORDERED.

Dated: July 16, 2012


EDWARD M. CHEN
United States District Judge